

Philip A. Consulting

RECEIVED
FEDERAL ELECTION
COMMISSION

2010 MAR -9 AM 11:17

OFFICE OF GENERAL
COUNSEL

March 2, 2010

Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

MUR # 6260

To Whom It May Concern:

My name is Brian D. Pierce, President of Philip A. Consulting, a Michigan based public relations firm. Over the past two weeks I have observed TWO blatant violations of federal election law by a congressional candidate from Michigan's 9th district, Rocky Raczkowski.

The **FIRST** violation is regarding a recent radio ad paid for by "Rocky for Congress" promoting a town hall event. At the beginning of the ad, Rocky is in compliance by disclaiming that the ad is paid for by "Rocky for Congress" but at the end of the ad, Rocky **FAILS** to provide the following "My name is Rocky Raczkowski and I approve this message". Please refer to Exhibit A which should include the following:

1. The disclaimer law provided by the Federal Election Commission as it relates to radio advertising.
2. Rocky's radio ad (text).
3. Rocky's media buy contract with WJR 760 of Detroit.

The **SECOND** violation is regarding a recent direct mail fundraising letter. The disclaimer is not properly placed inside a box with the words "Paid for by Rocky for Congress". Please refer to Exhibit B which should include the following:

1. The disclaimer law provided by the Federal Election Commission as it relates to radio advertising.
2. Rocky's fundraising letter that includes the illegal disclaimer.

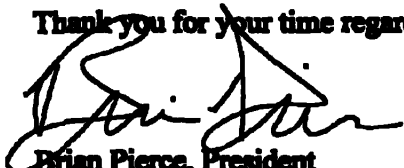
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It would be one thing if Rocky Raczkowski was new to this political process and the laws written for him to follow, but he is a federal election candidate veteran who ran for the U.S. Senate in 2002 and again briefly in 2008.

It is my conclusion that Rocky should have known better and should be punished as such.

Thank you for your time regarding this important matter.


Brian Pierce, President
Philip A. Consulting

Acknowledgment in an Individual Capacity

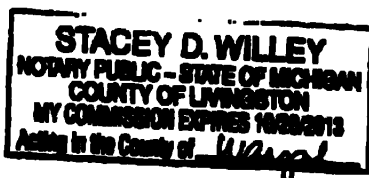
State of Michigan) County of Wayne)

Subscribed and sworn to before me on this 2nd day of March, 2010.

Name of notary public Stacey D. Willey


Notary Seal Signature of Notarial Officer

My commission expires: 10/26/2013



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~~CONFIDENTIAL~~

[Code of Federal Regulations]
[Title 11, Volume 1]
[Revised as of January 1, 2009]
From the U.S. Government Printing Office via GPO Access
[CITE: 11CFR110.11]

[Page 178-181]

TITLE 11--FEDERAL ELECTIONS

CHAPTER I--FEDERAL ELECTION COMMISSION

PART 110 CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS-- Table of Contents

Sec. 110.11 Communications; advertising; disclaimers (2 U.S.C 441d).

(a) Scope. The following communications must include disclaimers, as specified in this section:

(1) All public communications, as defined in 11 CFR 100.26, made by a political committee; electronic mail of more than 500 substantially similar communications when sent by a political committee; and all Internet websites of political committees available to the general public.

(2) All public communications, as defined in 11 CFR 100.26, by any person that expressly advocate the election or defeat of a clearly identified candidate.

(3) All public communications, as defined in 11 CFR 100.26, by any person that solicit any contribution.

(4) All electioneering communications by any person.

(b) General content requirements. A disclaimer required by paragraph (a) of this section must contain the following information:

(1) If the communication, including any solicitation, is paid for and authorized by a candidate, an authorized committee of a candidate, or an agent of either of the foregoing, the disclaimer must clearly state that the communication has been paid for by the authorized political committee;

(2) If the communication, including any solicitation, is authorized by a candidate, an authorized committee of a candidate, or an agent of either of the foregoing, but is paid for by any other person, the disclaimer must clearly state that the communication is paid for by such other person and is authorized by such candidate, authorized committee, or agent; or

(3) If the communication, including any solicitation, is not authorized by a candidate, authorized committee of a candidate, or an agent of either of the foregoing, the disclaimer must clearly state the full name and permanent

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street address, telephone number, or World Wide Web address of the person who paid for the communication, and that the communication is not authorized by any candidate or candidate's committee.

(c) Disclaimer specifications--(1) Specifications for all disclaimers. A disclaimer required by paragraph (a) of this section must be presented in a clear and conspicuous manner, to give the reader, observer, or listener adequate notice of the identity of the person or

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~~Continue~~

political committee that paid for and, where required, that authorized the communication. A disclaimer is not clear and conspicuous if it is difficult to read or hear, or if the placement is easily overlooked.

(2) Specific requirements for printed communications. In addition to the general requirement of paragraphs (b) and (c)(1) of this section, a disclaimer required by paragraph (a) of this section that appears on any printed public communication must comply with all or the following:

(i) The disclaimer must be of sufficient type size to be clearly readable by the recipient of the communication. A disclaimer in twelve (12)-point type size satisfies the size requirement of this paragraph (c)(2)(i) when it is used for signs, posters, flyers, newspapers, magazines, or other printed material that measure no more than twenty-four (24) inches by thirty-six (36) inches.

(ii) The disclaimer must be contained in a printed box set apart from the other contents of the communication.

(iii) The disclaimer must be printed with a reasonable degree of color contrast between the background and the printed statement. A disclaimer satisfies the color contrast requirement of this paragraph (c)(2)(iii) if it is printed in black text on a white background or if the degree of color contrast between the background and the text of the disclaimer is no less than the color contrast between the background and the largest text used in the communication.

(iv) The disclaimer need not appear on the front or cover page of the communication as long as it appears within the communication, except on communications, such as billboards, that contain only a front face.

(v) A communication that would require a disclaimer if distributed separately, that is included in a package of materials, must contain the required disclaimer.

(3) Specific requirements for radio and television communications authorized by candidates. In addition to the general requirements of paragraphs (b) and (c)(1) of this section, a communication that is authorized or paid for by a candidate or the authorized committee of a candidate (see paragraph (b)(1) or (b)(2) of this section) that is transmitted through radio or television, or through any broadcast, cable, or satellite transmission, must comply with the following:

(i) A communication transmitted through radio must include an audio statement by the candidate that identifies the candidate and states that he or she has approved the communication; or

(ii) A communication transmitted through television or through any broadcast, cable, or satellite transmission, must include a statement that identifies the candidate and states that he or she has approved the communication. The candidate shall convey the statement either:

(A) Through an unobscured, full-screen view of himself or herself making the statement, or

(B) Through a voice-over by himself or herself, accompanied by a clearly identifiable photographic or similar image of the candidate. A photographic or similar image of the candidate shall be considered clearly identified if it is at least eighty (80) percent of the vertical screen height.

(iii) A communication transmitted through television or through any broadcast, cable, or satellite transmission, must also include a similar statement that must appear in clearly readable writing at the end of the television communication. To be clearly readable, this statement must meet all of the following three requirements:

(A) The statement must appear in letters equal to or greater than four (4) percent of the vertical picture height;

(B) The statement must be visible for a period of at least four (4)

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ROCKY FOR CONGRESS CAMPAIGN ADD:

FEBRUARY 6TH, 2010

30 Seconds:

NARRATOR:

"This ad has been paid for by Rocky for Congress"

Music keys in the background:

(Song: Seeds of Grain – musical)

ROCKY:

"Are you frustrated with the direction our country is taking? And just as frustrated with what the Republicans have done before, as you are with the Democrats now?

I am, and that's why I am running for Congress in Oakland County.

I'm Rocky Raczowski, and I ask you to come out and learn how you can get involved, and change the direction of Washington.

Register for one of three, FREE events taking place this Saturday in Troy.

Just click on, Rocky works for us dot com, that's: Rocky works for us dot com

Together, we will make a difference and I hope to see there!"

- END -

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campaign committee, the disclaimer notice must identify who paid for the message, state that it was not authorized by any candidate or candidate's committee and list the permanent street address, telephone number or World Wide Web address of the person who paid for the communication. 11 CFR 110.11(b)(3).

Example: "Paid for by the QRS Committee (www.QRScommittee.org) and not authorized by any candidate or candidate's committee."

Coordinated Party Expenditures

Pre-nomination Period

On a public communication that is made as a coordinated party expenditure before a nominee is chosen, the disclaimer notice must identify the committee that paid for the message, but need not state whether the communication was authorized. 11 CFR 110.11(d)(1).

Example: "Paid for by XYZ State Party Committee."

Post-nomination Period

Once a candidate has been nominated for the general election, the disclaimer notice must also state who authorized the communication.

Example: "Paid for by the XYZ State Party Committee and authorized by the Sheridan for Congress Committee."

The committee that actually makes the expenditure is considered to be the person who paid for the public communication even when the committee is acting as the designated agent of a different party committee.

Exempt Party Activities

On exempt activity communications (for example, campaign materials) the disclaimer notice must identify the committee that paid for the message. 11 CFR 110.11(e).

Example: "Paid for by the XYZ State Party Committee."

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How and Where must the Disclaimer Appear?

In order to give the reader sufficient notice about the person(s) paying for or authorizing a public communication regardless of its medium, the disclaimer notice must be "clear and conspicuous" on the committee's communications, solicitations and response materials. The notice will not be considered to be "clear and conspicuous" if:

- It is difficult to read or hear; or
- The notification is placed where it can be easily overlooked.

11 CFR 110.11(c)(1).

Additional requirements are described below.

On printed materials, the disclaimer notice must appear within a printed box set apart from the other contents in the communication. The print must be of a sufficient type-size to be clearly readable by the recipient of the communication, and the print must have a reasonable degree of color contrast between the background and the printed statement. 11 CFR 110.11(c)(2)(i), (ii) and (iii).

~~Confidential~~**Example:**

Paid for by the Save the Seahorses
Committee and authorized by the
McKay for Senate Committee.

As long as the disclaimer appears somewhere within the communication it does not have to appear on the front page or cover of multiple-paged documents. However, in the case of single-sided documents and billboards, the disclaimer must appear on the front. 11 CFR 110.11(c)(2)(iv).

Safe Harbor for "Clearly Readable"

The regulations contain a safe harbor that establishes a fixed, 12-point type size as a sufficient type size for disclaimer text in newspapers, magazines, flyers, signs and other printed communications that are no larger than the common poster size of 24 inches by 36 inches. 11 CFR 110.11(c)(2)(i). Please note, disclaimers for larger communications will be judged on a case by case basis.

Safe Harbor for "Reasonable Degree of Color Contrast"

The regulations additionally provide two safe harbor examples that would comply with color contrast requirement:

- The disclaimer is printed in black on a white background; or
- The degree of contrast between the background color and the disclaimer text color is at least as great as the degree of contrast between the background color and the color of the largest text in the communication.

11 CFR 110.11(c)(2)(iii).⁴

Packaged Materials

When communications are distributed in a package or as a group, the distributing entity must evaluate each item separately in order to determine whether a disclaimer notice is required on that item. A message or ad that would require a disclaimer notice if it were distributed separately must still display the notice when it is included in a package of materials. 11 CFR 110.11(c)(2)(v). Example: A campaign poster is mailed with a campaign brochure and solicitation letter. A disclaimer notice must appear on each of these items.

Radio and Television Communications Authorized by the Candidate**Radio**

A radio broadcast must include an audio statement that is spoken by the candidate. The statement must identify the candidate, and state that he or she has approved the communication. 11 CFR 110.11(c)(3)(i).

Television

Like radio broadcasts, televised communications must include an oral disclaimer spoken by the candidate in which the candidate identifies himself or herself and states that he or she has approved the communication. 11 CFR 110.11(c)(3)(ii).⁵

This disclaimer can be conveyed in one of two ways:

- A full-screen view of the candidate making the statement (11 CFR 110.11(c)(3)(ii)(A)); or

ROCKY

FOR U.S. REPRESENTATIVE


A. Rocky Raschewald
Republican Candidate
Michigan's 8th Congressional District
www.rockyworksforus.com
Phone: 248.388.4884

Thursday Morning
26 January, 2010

Dear Friend,

Our wins in New Jersey, Virginia and now in Massachusetts marked the beginning of a wave of freedom rolling across our great nation. Scott Brown's recent victory proved we can take our country back from those in Washington seeking to change or nation and destroy our way of life.

With your support, we will stop the madness and the radical liberals who control Congress. Their corrupt and out-of-control spending, tax hikes, and attempted government takeover of our healthcare system have devastated our economy and cost millions of hard-working taxpayers their jobs. Their assault on our values – and even our history – is dividing our country. Even worse, their willful neglect of our economy and our national security is putting every American at risk. Now is the time to embrace the spirit of Massachusetts and put it to work here in Michigan.

Only freedom and limited government can revitalize our economy and produce sustainable jobs. We must end the ultra-liberal policies that have destroyed Michigan's economy. And most important, America's national security and our freedom depend on preserving a military that is second to none. Here are the principles I believe in and stand for:

- Cutting taxes and spending to restore prosperity and create jobs
- Reduce the size and scope of the federal government
- Strengthen and support the world's most powerful military
- Preserve, protect, and defend the U.S. Constitution

My opponent has been bought and paid for by Nancy Pelosi and the liberals who run Congress. He votes consistently for special-interest bailouts, bigger government, higher taxes, more spending, deeper deficits, and policies that are reducing our individual freedom and undermining our national security. He has even smeared the voters by calling anyone that opposes him as an "extremist". Gary Peters is the problem – and he must be defeated. But to secure victory, we need your help.

I have served in the Michigan Legislature as the Majority Leader, led a national business with employees in Michigan, and served in the U.S. military for 24 years with combat service. I have the experience, conservative principles, and determination to get the job done and be your voice and champion in Washington. With your help, we will carry a principled and conservative message to voters throughout the 8th Congressional District. Please complete the form below and return it to us – or visit www.rockyworksforus.com and click on "contributor" at the top.

From the bottom of my heart, I pledge to work hard and to re-earn your support every day. I appreciate your patriotism and will proudly continue to stand by your side, fighting for America's future and the future of our children!

Thank you. May God bless you – and the United States of America!



Rocky Raschewald

 Please cut along the dotted line and return in the enclosed envelope. Thank you!

____ Yes Rocky! I / We will stand with you in support of our campaign for Congress.

Name(s): _____ Employer: _____
Address: _____ Occupation: _____
City: _____ State: _____ Zip Code: _____
eMail: _____ Phone: (____) _____

*Donation \$ _____ (☐ Check enclosed) or, Credit Card Type: ☐  ☐  ☐ 
Card #: _____ Expiration Date: ____/____/____

AUTHORIZATION SIGNATURE:

*This Letter has been paid for by Rocky for Congress. Contributions are not deductible for federal income tax purposes. Corporate checks and contributions from foreign entities are prohibited. *Federal law requires us to report the name, address, occupation and employer of all contributors whose contributions aggregate in excess of \$500 in a calendar year.

Your Enthusiasm:

***We are interested in being involved in the following manner:

- ☐ Endorse the Campaign
- | | | | |
|--|---|---|--|
| <input type="checkbox"/> Post a Yard Sign | <input type="checkbox"/> Host a Home Party | <input type="checkbox"/> Help with Events | <input type="checkbox"/> Become a Neighborhood Captain |
| <input type="checkbox"/> Write Letters to the Editor | <input type="checkbox"/> Help with Fund Raising | <input type="checkbox"/> Send Out e-mails | <input type="checkbox"/> Recruit Supporters |

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